

Remarks

Claims 1-2 and 4-22 are pending.

Rejections Under Section 101

Claims 8-12 and 14-15 were rejected under Section 101 as being directed to non-statutory subject matter. The rejection is based on the assertion that Claim 8 recites a computer listing *per se*. This assertion is not correct.

Claim 8 recites a software distribution *medium* having computer readable information thereon comprising multiple installable software versions, a root information file configured to control a software installation of any one of the multiple software versions, and secondary information files, each configured to control a software installation of a particular software version. Claim 8 is directed to a physical thing and not just a computer listing *per se*. Moreover, Claim 8 is directed to "functional descriptive material" on a computer readable medium – a data structure which imparts functionality when employed as a computer component. The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." MPEP § 2106. When, as in Claim 8, functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. See *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory). MPEP § 2106.

Applicants request, therefore, that the Office reconsider and withdraw the Section 101 rejection of Claim 8 and Claims 9-12 and 14-15 depending from Claim 8.

Rejections Under Section 103

Claims 1-2 and 4-22 were rejected under Section 103 as being obvious over Forbes (6381742) in view of Davis (5742829).

Plural INF File Architecture For Software Installation – Claims 16 and 20

The system of Claim 20 includes a software distribution medium comprising a root information file located in a root directory and secondary information files each located in a particular subdirectory. The root information file is configured to direct the

installation module to install a correct software version onto the computer device from source files located in any subdirectory. Each secondary information file is configured to direct the installation module to install a correct software version onto the computer device from source files located in a particular subdirectory.

The Office asserts that the combination of Forbes and Davis teaches or suggests all of the limitations in Claim 20. The Office cites Forbes as an example of an automatic software installation system that uses an information file. The Office relies on Davis as teaching the specific directory architecture recited in the claims, citing to Davis columns 6-8 and Table 3. More specifically, the Office asserts that "Davis teaches wherein the INF file is located in a root directory ... and the correct software version is located in a subdirectory...." Office Action, page 5.

First, with regard to Claim 20, Davis does not teach or even suggest a root information file located in a root directory and secondary information files each located in a particular subdirectory. Conspicuously absent from the Office's remarks is any mention of plural information files generally, and more specifically, a root information file in a root directory and secondary information files in subdirectories. For this reason alone, the Office has failed to establish a prima facie case of obviousness as to Claim 20.

Second, Davis does not teach plural information files for software installation. (Nor does Forbes, and the Office has made no assertion to the contrary.) Davis doesn't teach anything about information files for installing software. Indeed, the directory structure in Davis Table 3 has no particular relevance to how the correct version of the software is selected for installation. Moreover, there is no teaching or suggestion in Davis that the map file 324 functions as some type of INF file. The software selection process described in Davis at columns 9-12 does not contemplate an INF file architecture or directory. Davis teaches a map file 324 and a software directory structure 326. The map file 324 lists the software stored on the server 202 and indicates the specific edition of that software, including the language and operating system. Davis, column 6, line 66 - column 7, line 6. The software directory structure 326 includes a "main directory 'site.srv' with various directories of the main directory" Language independent portions of each software are contained in these "various

directories" and language dependent portions of each software are contained in subdirectories within these directories. This directory structure is shown in Davis' Table 3. Davis, column 7, lines 15-31.

For all of these reasons, Claim 20 distinguishes patentably over the combination of Forbes and Davis.

The same analysis applies to Claims 8 and 16. Claim 8 recites a root INF file configured to control a software installation of any one of the multiple software versions and secondary INF files each configured to control a software installation of a particular software version. Claim 16 recites "a double INF file architecture configured to direct the processing unit to automatically install a correct software version on the computer." As noted above for Claim 20, neither Forbes nor Davis (alone or in combination) teach or suggest a plural information file architecture for installing software such as that recited in Claims 8 and 16.

Claims 17-19 and 21-22 also distinguish over the cited art due to their dependence on Claims 16 and 20, respectively.

Further with regard to Claim 9, and again as noted above for Claim 20, Davis does not teach or suggest the root INF file located in the root directory and each secondary INF file located in a distinct subdirectory. The Office has made no specific assertion to the contrary.

Installing From Subdirectory Based On INF File In Root Directory -- Claim 1

The method of Claim 1 includes automatically locating an information file in a root directory and, based on information in the information file, installing a software version located in a subdirectory. So far as is relevant to the method of Claim 1, it may be assumed that Forbes teaches a conventional software installation method that utilizes an information file, such as that described in the Background section of the instant application. And, Forbes suffers from the same deficiency -- a software installation Wizard has no information from an INF file in the root directory that directs it to the correct software version in the appropriate subdirectory. That is to say, a conventional software installation system such as that disclosed in Forbes does not, and cannot, install a software version located in a subdirectory based on information in an information file located in the root directory, because there is no such information in a

root INF file. Davis does not supply the missing elements.

Davis teaches storing software (or portions of software) in subdirectories according to natural language and operating systems. Davis says nothing about an information file that might somehow direct a software install Wizard to the appropriate subdirectory. Moreover, there is nothing in Davis that suggests a conventional software installation INF file might somehow be modified to utilize his directory structure for installing software versions stored in subdirectories. That is to say, the combination of Forbes and Davis does not teach all of the limitations of Claim 1, nor is there any motivation to combine the references in any event.

The Office asserts it would be obvious to combine Forbes and Davis "to accommodate different natural languages in a heterogeneous computer environment...."

While the need to accommodate different languages (and operating systems) might motivate moving language dependent portions of software into separate subdirectories, it is wholly irrelevant to modifying the software installation procedure described in Forbes. As specifically noted in the Background section of the instant application, software versions may be (and were) installed from subdirectories, it's just that it is difficult for an unsophisticated user to do so. Specification, page 2, line 26 through page 3, line 18. That is to say, no one reading Davis would suddenly come to the realization that, hey, I can use this subdirectory structure to modify the so-called INF file of Forbes to include information identifying software versions in a subdirectory.

Applicants respectfully submit that the combination of Forbes and Davis does not teach all of the limitations in Claim 1 and, even if it is assumed it does, the combination is not properly motivated.

Claims 2 and 4-7 are also felt to distinguish patentably over the cited references due to their dependence on Claim 1.

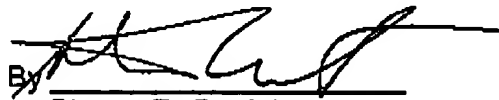
Further with regard to Claim 2, Davis does not teach replacing path variables in the source section (country code) with path values from the strings section (O/S system) and locating the correct software version in a subdirectory based on the path values. The Office's assertion to the contrary is not correct. The Office has not, as yet, specifically pointed out those passages in Davis that teach the "source" and "string" path value limitations in Claim 2. Rather, the Office cites generally to Davis column 6,

line 66 through column 8, line 21. So far as Applicants have been able to determine, Davis says nothing about replacing path variables in the source section with path values from the strings section. If the Office disagrees, it is respectfully requested to specifically point out and explain those passages in Davis that teach or suggest these limitations. Absent such a showing, the rejection of Claim 2 should be withdrawn.

All pending claims are in condition for allowance. The foregoing is believed to be a complete response to the outstanding Office Action.

Respectfully submitted,

Brett Green et al.

By 
Steven R. Ormiston
Reg. No. 35,974
208.433.1991 x204

October 5, 2005